

ESTTA Tracking number: **ESTTA327002**

Filing date: **01/14/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91188736
Party	Plaintiff Anastasia Beverly Hills, Inc.
Correspondence Address	John M. May Anastasia Beverly Hills, Inc. 438 North Bedford Drive Beverly Hills, CA 90210 UNITED STATES Law@May.us,dchavez@dchavezlaw.com,raluca@anastasia.net
Submission	Motion to Dismiss - Rule 12(b)
Filer's Name	John M May
Filer's e-mail	Law@May.us,dchavez@dchavezlaw.com,raluca@anastasia.net
Signature	/JMM#26200/
Date	01/14/2010
Attachments	OpposersMotionDismiss.pdf (14 pages)(307447 bytes) MDexPB1.pdf (12 pages)(233947 bytes) MDexP1ABC.pdf (20 pages)(348229 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

ANASTASIA BEVERLY HILLS, INC.)	
ANASTASIA SOARE	)	Opposition No. 91188736
ANASTASIA SKIN CARE, INC.)	
	)	OPPOSERS' MOTION TO
Opposers	)	DISMISS
v.	)	COUNTERCLAIMS
)	
ANASTASIA MARIE LABORATORIES, INC.)	
)	
Applicant)	

Opposers jointly and severally move for dismissal of Applicant's several Counterclaims (and/or for Judgment on the Pleadings thereon) pursuant to FRCP 12(b)6 and FRCP 12(c) for failure to state a claim on which relief may be granted.

Procedural Background

In their Notice of Opposition (OPP-1¹), Opposers relied in part on Registrations 2798069 which issued on December 23, 2003² and Registration 2821892 which issued on March 16, 2004 (collectively the "Involved Registrations", and on a third Registration 3342405 which is not involved in the instant motion.

In its Answer (OPP-6), Applicant counterclaimed for cancellation of the 2798069 and 2821892 Registrations on grounds of "fraud" (paragraphs 10 and 23); the factual bases

¹ This and other similarly formatted parenthetical references are to papers of record in this Proceeding, as indexed in ttavue

² Each of the Involved Registrations is believed to be readily available to the Board and already of record in this proceeding.

in support of those grounds (paragraphs 4-8, 11, 13, 17-21 and 26) were pleaded only "on information and belief".

Opposers' allegedly fraudulent Registrations include not only class 3, but also classes 4, 8 and 21. Applicant has effectively conceded in its Counterclaims (paragraphs 4, 6, 11, 17, 19 and 24 of OPP-6) that it has no information or belief regarding whether or not Opposers pleaded marks were used on the goods in classes 8 ("eyebrow tweezers and eyebrow grooming scissors") and 21 ("cosmetic brushes").

Discovery is ongoing, and has been extended by stipulation until Feb 20, 2010; in accordance with the present schedule, this case will not be ready for decision by the Board until March 2, 2011 (if the Counterclaims are dismissed), otherwise March 17, 2011.

Concurrently with this Motion to Dismiss, Opposers are also filing a Motion to Amend both Involved Registrations prior to the deadlines (including the six month grace period) for filing respective section 8 declarations (June 23, 2010 for Reg'n 2798069 and Sept 16, 2010 for Reg'n 2821892).

Applicable law

In petitioning to cancel on the ground of fraud, a petitioner must allege the elements of fraud with particularity in accordance with FRCP Rule 9(b), made applicable to Board proceedings by USPTO Rule 2.116(a). Under Rule 9(b), together with FRCP Rule 11 and USPTO Rule 11.18, "the pleadings [must] contain explicit rather than implied expression of the circumstances constituting fraud." *King Automotive, Inc. v. Speedy Muffler King, Inc.*, 667 F2d 1008, 212 USPQ 801, 803 (CCPA 1981).

Allegations based solely on information and belief raise only the mere possibility that such evidence may be uncovered and do not constitute pleading of fraud with particularity. Thus, to satisfy Rule 9(b), any allegations based on "information and belief" must be accompanied by a statement of facts upon which the belief is founded. *Exergen*

Corp. v. Wal-Mart Stores Inc., 575 F3d 1312, 91 USPQ2d 1656 at 1670 n.7, citing *Kowal v. MCI*, 16 F3d 1271, 1279 n.3 (DC Cir 1994) (“[P]leadings on information and belief [under Rule 9(b)] require an allegation that the necessary information lies within the defendant's control, and ... such allegations must also be accompanied by a statement of the facts upon which the allegations are based”).” Under USPTO Rule 11.18, the factual basis for a pleading requires either that the pleader know of facts that support the pleading or that evidence showing the factual basis is “likely” to be obtained after a reasonable opportunity for discovery or investigation. *Asian and Western Classics B.V. v. Lynne Selkow* 92 USPQ2d 1478 (TTAB 2009).

A pleading of fraud on the USPTO must also include an allegation of intent and sufficient underlying facts from which a court may reasonably infer that a party acted with the requisite state of mind. *Exergen Corp., supra*. Pleadings of fraud which rest solely on allegations that the trademark applicant or registrant made material representations of fact in connection with its application or registration which it “knew or should have known” to be false or misleading are an insufficient pleading of fraud because it implies mere negligence and negligence is not sufficient to infer fraud or dishonesty. *In re Bose*, 91 USPQ2d at 1940, quoting *Symbol Techs., Inc. v. Opticon, Inc.*, 935 F2d 1569, 1582 (Fed Cir 1991). Thus under *Bose*, intent is a specific element of a fraud claim and an allegation that a declarant “should have known” a material statement was false does not make out a proper pleading. *Asian and Western Classics B.V., supra*.

“Materiality” of any false application statement is determined in the context of whether the false statement is critical to the Trademark Examining Attorney’s decision to approve a mark for publication. *Standard Knitting, Ltd. v. Toyota Jidosha Kabushiki Kaisha*, 77 USPQ2d 1917, 1926 (TTAB 2006).

The filer of a multi-class application is in the same position as though it had filed several single-class applications, and the combined application is regarded as though it were a group of individual applications. *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544

F2d 1098, 1101-02, 192 USPQ 24, 28 (CCPA 1976).

Each class of goods or services in a multiple class registration must be considered separately when reviewing the issue of fraud, and judgment on the ground of fraud as to one class does not in itself require cancellation of all classes in a registration. *G&W Laboratories, Inc. v. G W Pharma Limited* 89 USPQ2d 1571 (TTAB 2009).

Argument

As to Class 3 (Potpourri; [listed] Cosmetics; [listed] Skin Care Products; [listed] Body Cleansing Products; [listed] Fragranced Products; Home Fragrances)

The originally filed intent to use applications which eventually matured into Involved Registrations 2798069 and 2821892 listed the following goods which were all included with only minor amendments³ in the registered goods for Class 3:

Potpourri;

cosmetics, namely, foundation, concealer, pressed powder, loose powder, eye shadow base, blush, bronzing products, eye shadows, mascara, eyeliners, lip coverings, lipstick, lip gloss, lip liners, eyebrow color products, eyebrow pencils, eyebrow powder, eyebrow pomade, eyebrow gel, nail polish, nail base coat, and nail top coat;

skin care products, namely, facial cleansers, facial cleansing bars, facial toners, facial astringents, facial moisturizers, eye creams, eye gels, eye-area moisturizers, eye-area gels, eye-area creams, facial masques, facial serums, facial exfoliators, body cream, body lotion, body powder, body moisturizers, body lotions, body toners, body astringents, and hand creams;

body cleansing products, namely, creams, gels, and bar soaps;

fragrance products, namely, perfume, eau de parfum, eau de toilette, eau de cologne, and fragranced creams, lotions, gels, bar body toners, and

³ "bronzing products" was amended during examination of both Involved Registrations to "bronzing liquid" and "eyebrow color products" was amended to "eyebrow color pencils" although those amendments were not reflected in the 2821892 Registration; "body lotion" and "body lotions" were separately listed in both Involved Registrations

astringents

home fragrances⁴.

In paragraph 1 of its Counterclaim 1⁵, Applicant lists the registered goods for the 2798069 Registration, and then alleges in paragraph 4:

On information and belief, Opposers are not using, and have never used, the trademark A ANASTASIA BEVERLY HILLS & Design on any of the foregoing goods set out in paragraph 2 [sic] herein **except possibly concealer** and eyebrow products, namely, **eyebrow pencils, eyebrow powder, eyebrow pomade, eyebrow gel**, eyebrow tweezers, eyebrow grooming scissors and cosmetic brushes [emphasis added]. ***

Thus Applicant has in effect admitted that it is not aware of any facts that support its fraud allegations as to Class 3, at least with respect to concealer, eyebrow pencils, eyebrow powder, eyebrow pomade, and eyebrow gel⁶.

As to the other subcategories of goods listed in the Involved Registrations under the category "cosmetics", namely foundation, pressed powder, loose powder, eye shadow base, blush, bronzing products, eye shadows, mascara, eyeliners, lip coverings, lipstick, lip gloss, lip liners, eyebrow color products, nail polish, nail base coat, and nail top coat, the Declaration of Anastasia Soare in Support of Opposers' Motions (attached hereto as Exhibit PB-1) provides credible evidence in paragraphs 36 and 37 that both involved marks had actually been used in commerce as of August 5, 2003 not only for eyebrow highlighting pencils and eyeliners, loose powder, eye shadows, mascara (the specimens of use of record in at least one of the Involved Registrations), but also on all the listed goods included within the cosmetics category except for nail polish, nail base coat, and nail top coat.

⁴ "home fragrances" was originally listed in Class 5, but was re-assigned to Class 3 during examination

⁵ Page 3 of OPP-6

⁶ A corresponding allegation, also on information and belief was made against the ANASTASIA BEVERLY HILLS mark of the 2821892 Registration in paragraph 17 on page 8 of OPP-6

As documented in the USPTO Trademark ID Manual,⁷ "Cosmetics"; "Cosmetics and cosmetic preparations"; and "Cosmetics and make-up" have each been an acceptable identification for goods in class 3, both in the United States and in the other Trilateral Offices, and "Cosmetics in general, including perfumes" is an acceptable identification in the United States for goods in class 3⁸.

Assuming arguendo that any statement made by Opposers to the effect that the involved marks had been used in commerce on "nail polish, nail base coat, nail top coat" was literally false, it did not result in any increased scope or term of protection than Opposers would have been entitled had Opposers instead simply listed "cosmetics" or "cosmetics and cosmetic preparations" or "cosmetics and make-up" in their original intent to use applications. Moreover since "nail polish" etc. is arguably closely related to other types of cosmetics and makeup and sold to the same customers through the same channels of trade, a registration that listed only other types of makeup could arguably be used to oppose registration of the same mark for nail polish.

Thus, the specific inclusion of "nail polish, nail base coat, nail top coat" in the registered goods, albeit erroneous and arguably negligent, was harmless and arguably not material. More importantly, as evidenced by paragraph 40 of Exhibit PB-1, such an error was made without any deceptive intent, and once that error was brought to Opposers' attention by Applicant, steps have been taken to correct it. Indeed, it is highly unreasonable to presume any fraudulent intent under these circumstances, where the questioned inclusion of additional goods within the cosmetics category, rather than extending the practical scope of protection afforded by the Involved Registrations, subjects them to possible cancellation.

⁷ A computer searchable version of the latest edition of the entire Trademark ID Manual is believed to be readily available to the Board, a copy of the results of a recent search thereof for the term "cosmetics" is attached for the Board's convenience as Exhibit P-1A; the Board's attention is directed to hits 80, 81, and 82.

⁸ As of June 1, 2001 for Cosmetics; November 8, 2007 for "Cosmetics and cosmetic preparations", "Cosmetics and make-up", and "Cosmetics in general, including perfumes"

Similarly, from paragraph 36 and 37 of Exhibit PB-1 it is apparent that the involved marks were being used in commerce at least as early as August 5, 2003 on various non-medicated skin care preparations and on soaps for body care and/or for personal use, including exfoliating shower cream, body milk, exfoliating face scrub, hand cream and body bar soap (paragraph 36), as well as on facial cleansers, facial cleansing bars, facial moisturizers, eye creams, eye gels, eye-area moisturizers, eye-area gels, eye area creams, facial serums, facial exfoliators, body cream, body lotion/body lotions, body powder, body moisturizers, and hand creams; body cleansing creams, and bar soaps (paragraph 37). Since "Non-medicated skin care preparations" was an acceptable identification for goods in class 3, both in the United States and in the other Trilateral Offices since July 1, 2001⁹, and "Perfumed soap", "Perfumed soaps", "Soaps for body care" and "Soaps for personal use" were all acceptable identifications for goods in class 3, both in the United States and in the other Trilateral Offices, since July 20 2004¹⁰, Opposers presumably could have obtained a valid registration with acceptable goods identifications that were broad enough to encompass the otherwise improperly included specific skin care products ("facial toners, facial astringents, facial masques, body toners, body astringents"), "body cleansing gels" and the "fragranced gels, bar body toners, and astringents" mentioned in paragraph 39 of Exhibit PB-1.

Thus, the specific inclusion of other closely related goods such as "facial toners, facial astringents, facial masques, body toners, body astringents; body cleansing gels; fragranced gels, bar body toners, and astringents" in the registered goods, albeit erroneous and arguably negligent, does not appear to be material. More importantly, as evidenced by paragraph 40 of Exhibit PB-1, such an error was made without any deceptive intent, and once that error was brought to Opposers' attention by Applicant, steps have been taken to correct it. Indeed, it is unreasonable to presume any

⁹ See hit 7 of Exhibit P-1B, which documents the results of a recent search for the phrase "skin care"

¹⁰ See hits 33, 34, 44, 46 of Exhibit P-1C, which documents the results of a recent search for the term "soaps"

fraudulent intent, where the questionable inclusion of additional goods within the skin care and body cleansing categories, rather than extending the practical scope of protection afforded by the Involved Registrations, subjects them to possible cancellation.

As to "potpourri; fragrance products, namely, perfume, eau de parfum, eau de toilette, eau de cologne, and fragranced creams, lotions, gels, bar body toners, and astringents; home fragrances" Opposers concede that "fragranced gels, bar body toners, and astringents" were erroneously included in the listed goods (paragraph 40 of Exhibit PB-1); however, as also evidenced by paragraph 40, that error was made without any deceptive intent, and once that error was brought to Opposers' attention by Applicant, steps have been taken to correct it.

In summary, with respect to Class 3, certain errors were made in the listing of the goods in the Involved Registrations; however those errors involved specific goods closely related to the goods on which the marks were actually used in commerce and the improperly listed goods would have been properly encompassed by the Registrations had Opposers used more generic, but perfectly acceptable, identifications of its goods. Indeed, the questionable inclusion of additional specific goods identifications, rather than extending the practical scope of protection afforded by the Involved Registrations, subjects those Registrations to possible cancellation, and argues against any presumption that the errors in question were motivated by any deceptive or fraudulent intent.

Accordingly, not only has Applicant failed to assert a claim on which relief may be granted as to class 3, it is unlikely that it will be able provide the required evidentiary basis to plead any such claim with the particularity required by FRCP Rule 9(b), USPTO Rule 2.116(a), FRCP Rule 11 and USPTO Rule 11.18.

As to class 4 (Candles)

In paragraphs 3, 6, 14 and 19 of its Counterclaims¹¹, Applicant lists a large number of goods in multiple classes (including specifically "candles in Class 4") and then alleges "on information and belief" in paragraphs 4, 6, 17 and 19 that Opposers did not then use, and do not now use either of the involved marks "on any of [those] goods except possibly concealer, [certain specified eyebrow products] and cosmetic brushes" and in paragraphs 11 and 24 that the involved marks have "never been used on any of the goods listed in the registration except possibly concealer, the foregoing specified eyebrow products and cosmetic brushes".

In fact, as is apparent from the file wrapper of US 2821892, and as set forth in more detail in paragraphs 19, 20 and 21 of Exhibit PB-1, four different specimens bearing the marks in question, including candles in Class 4 (the other specimens being eyebrow highlighting pencils, eye liners, and cosmetic wax) were in existence and being made available for sale in Opposers salon at least as early as May 22, 2001, prior to the issuance of either Involved Registration.

Moreover, as evidenced by the facts set forth in paragraph 36 of Exhibit PB-1, at least as early as September 9, 2002 both involved marks were "actually being used in commerce" as defined in paragraphs 33 and 34 of Exhibit PB-1, namely "in interstate commerce regulable by Congress" by applying the mark on candles in Class 4 "in the normal course of trade".

Thus, not only has Applicant failed to investigate the facts and plead its Counterclaims with sufficient particularity with respect to class 4 (candles) to satisfy FRCP Rules 9(b) and 11 and USPTO Rules 2.116(a), and 11.18, the only evidence of record in this proceeding suggests that Applicant is not likely to be able to satisfy the enhanced burden required to state a claim of fraud as to Class 4.

Additionally, it is noted that should the concurrently filed Motion to Amend be granted and the Section 7 amendments proposed therein be entered into the Register, Class 4 will have been cancelled from both Involved Registrations, and Applicant's Counterclaims will then be moot as to Class 4.

As to Class 8 (Eyebrow Tweezers and Eyebrow Grooming Scissors)

In paragraphs 3, 6, 14 and 19 of its Counterclaims¹², Applicant lists a large number of goods in multiple classes (including specifically " eyebrow tweezers and eyebrow grooming scissors in Class 8") and then states "on information and belief" in paragraphs 4, 6, 17 and 19 that Opposers did not then, and do not now, use either of the involved marks "on any of [those] goods **except possibly** concealer, [certain specified eyebrow products including] **eyebrow tweezers, eyebrow grooming scissors** *** and cosmetic brushes"; and in paragraphs 11 and 24 that the involved marks have "never been used on any of the goods listed in the registration **except possibly** concealer, the foregoing specified eyebrow products [including **eyebrow tweezers, eyebrow grooming scissors**] and cosmetic brushes [emphasis added].

Thus, Applicant has in effect admitted that it is not aware of any facts that support its allegations as to Class 8.

In fact, as is apparent from the file wrapper of Registration 2821892, and as set forth in more detail in paragraphs 20 and 21 of Exhibit PB-1, two different specimens bearing the marks in question, including tweezers in Class 8 (the other specimen being cosmetics brushes) were in existence and being used or made available for sale in Opposers' salon at least as early as May 22, 2001, prior to the issuance of either Involved Registration.

¹¹ Pages 3-10 of OPP-6

¹² Pages 3-10 of OPP-6

Moreover, both involved marks were "actually being used in commerce" as defined in paragraphs 33 and 34 of Exhibit PB-1, namely "in interstate commerce regulable by Congress" and "in the normal course of trade" on "eyebrow tweezers" at least as early as September 9, 2002¹³ and on "eyebrow grooming scissors" at least as early as August 5, 2003¹⁴, which is prior to the respective registration dates of the Involved Registrations of December 23, 2003 and March 16, 2004.¹⁵

Thus, not only has Applicant failed to investigate the facts and plead its Counterclaims with sufficient particularity with respect to class 8 (eyebrow tweezers and eyebrow grooming scissors) to satisfy FRCP Rules 9(b) and 11 and USPTO Rules 2.116(a), and 11.18, the only evidence of record in this proceeding suggests that Applicant is not likely to be able to satisfy the enhanced burden required to state a claim of fraud as to Class 8.

As to Class 21 (Cosmetic Brushes)

In paragraphs 3, 6, 14 and 19 of its Counterclaims¹⁶, Applicant lists a large number of goods in multiple classes (including specifically "cosmetics brushes in Class 21") and then states "on information and belief" in paragraphs 4, 6, 17 and 19 that Opposers did not then, and do not now, use either of the involved marks "on any of [those] goods **except possibly** concealer, [certain specified eyebrow products] and **cosmetic brushes**"; and in paragraphs 11 and 24 that the involved marks have never been used on any of the goods listed in the Registration **except possibly** concealer, the foregoing specified eyebrow products and **cosmetic brushes**" [emphasis added].

¹³ Paragraph 36 of Exhibit PB-1

¹⁴ Paragraphs 36 and 37 of Exhibit PB-1

¹⁵ As of August 5, 2003, the 2798069 Registration had already been Allowed but no Statement of Use had yet been filed; the 2821892 Registration was then still pending before Examining Attorney Wood (having not been officially approved for Publication until December 3, 2003)

¹⁶ Pages 3-10 of OPP-6

Thus, Applicant has in effect admitted that it is not aware of any facts that support its allegations as to Class 21.

In fact, as is apparent from the file wrapper of US 2821892, and as set forth in more detail in paragraphs 20 and 21 of Exhibit PB-1, two different specimens bearing the marks in question, including cosmetic brushes in Class 21 (the other specimen being tweezers) were in existence and being used in Opposers' salon at least as early as September 4, 2002.

Moreover, as evidenced by the facts set forth in paragraph 36 of Exhibit PB-1, at least as early as September 9, 2002 both involved marks were "actually being used in commerce" as defined in paragraphs 33 and 34 of Exhibit PB-1, namely "in interstate commerce regulable by Congress" by applying the mark to specific goods "in the normal course of trade", including "cosmetic brushes", which is prior to the respective registration dates of the Involved Registrations of December 23, 2003 and March 16, 2004.¹⁷

Thus, not only has Applicant failed to investigate the facts and plead its Counterclaims with sufficient particularity with respect to class 21 (cosmetic brushes) to satisfy FRCP Rules 9(b) and 11 and USPTO Rules 2.116(a), and 11.18, the only evidence of record in this proceeding suggests that Applicant is not likely to be able to satisfy the enhanced burden required to state a claim of fraud as to Class 21.

Conclusion

Applicant's pleadings of the alleged fraud are based solely on information and belief and do not include any facts (as required under the applicable FRCP and USPTO Rules) from which the required deceptive intent may be inferred. Applicant does not even allege any specific errors with respect to Classes 8 and 21, and its hypothesized

¹⁷ As of September 9, 2002, both Involved Registrations were then still pending before Examining Attorney Wood

allegations concerning Class 4 are rebutted by the specimens of record. Moreover, even though Opposers admit that certain errors occurred in the listing of the goods in class 3, the facts now of record (including the convoluted prosecution histories of the two Involved Registrations, the large number of listed goods in class 3, and the close relationships between the erroneously included goods and the properly included goods) strongly suggest that Applicant will be unable to point to any credible evidence from which the required deceptive intent may be legitimately inferred.

In sum, Applicant has failed to plead its fraud allegations with the required particularity and is unlikely to be able to do so. Accordingly Applicant's Counterclaims should be Dismissed with prejudice or in the alternative, Judgment should be entered thereon against Applicant.

Dated: January 14, 2010

Respectfully submitted,

/JMM#26200/

John May

Attorney for Opposers

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this OPPOSERS' MOTION TO DISMISS COUNTERCLAIMS and copies of the referenced Exhibits is being served this date upon Applicant Anastasia Marie Laboratories, Inc. by email, by agreement, upon Applicant's counsel, Daphne Sheridan Bass, at daphneb@earthlink.net.

Dated: January 14, 2010

Respectfully submitted,

/JMM#26200/

John May

Attorney for Opposers

**IN THE UNITED STATES PATENT AND TRADEMARK
OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL
BOARD**

ANASTASIA BEVERLY HILLS, INC.)	
ANASTASIA SOARE	)	Opposition No. 91,188,736
ANASTASIA SKIN CARE, INC.)	
)	
Opposers	)	OPPOSERS' MOTION TO
	)	DISMISS
v.	)	COUNTERCLAIMS
)	
ANASTASIA MARIE LABORATORIES, INC.)	
)	
Applicant)	

EXHIBIT PB-1

(Declaration of Anastasia Soare)

ANASTASIA BEVERLY HILLS, INC.
ANASTASIA SOARE
ANASTASIA SKIN CARE, INC.

V.

Applicant

DECLARATION OF ANASTASIA SOARE IN SUPPORT OF OPPOSERS' MOTIONS

1. I am one of the Opposers in this proceeding. I am also the founder and President of Opposer Anastasia Skin Care, Inc. ("ASC") and a co-founder and President of Opposer Anastasia Beverly Hills, Inc. ("ABH"), formerly known as A.A.S. Cosmetics, Inc. ("AAS"). I will hereafter refer to myself individually in the first person singular ("I", "my", etc.) and to Opposers collectively in the first person plural ("we", "our", etc.).

Background History

3. I grew up in the Romanian seaport of Constanta, where I worked as an apprentice in my parents' tailor shop. I studied architecture, engineering,

drawing, and mathematics during college, and trained professionally as an Esthetician in Romania before moving with my family to California in 1989.

4. At the time I relocated to California, I had only a limited knowledge of English, and spoke with a strong accent. However, my skills as an aesthetician (and in particular those for eyebrow shaping and waxing) were recognized by others in my field, and after obtaining my license in 1990, I rapidly developed my own clientele.

5. I formed Opposer ASC on or about January 29, 1997, and its Beverly Hills skincare salon opened on Bedford Drive in Beverly Hills in July 1997. That salon has always provided a full range of cosmetic and skincare services including application of makeup, makeup lessons, facials, anti-aging treatments for the eyes and face, removal of unwanted hair (waxing) from the face and body, as well as my signature eyebrow shaping services.

6. From its inception, the clientele of our Beverly Hills salon was not limited to local residents, but has always included numerous visitors from out of state and from other countries, many of whom make appointments on a regular basis with me personally for my eyebrow shaping services. Over the years, our clientele has included celebrities such as Oprah, Madonna, Jennifer Lopez, Naomi Campbell, Jada Pinkett Smith, Lara Flynn Boyle, Melissa Etheridge, Penelope Cruz, Sharon Stone, and others.

7. My experience and continued interest in the science of aesthetics have enabled me to achieve a nationwide reputation as an expert in aesthetics, cosmetics and skin care. I have appeared on many nationally broadcast television shows such as Today, Oprah, Fox Business Channel, Extreme Makeover, Access Hollywood, Xtra, Entertainment Tonight. My story has been featured in the pages of top publications such as Wall Street Journal, Vogue, W, Town & Country, Elle, InStyle, Allure, Entertainment Weekly, Newsweek, People, Flaunt and Los Angeles Magazine.

8. At the time we opened our Beverly Hills salon in 1997, it was my intention to develop my own line of cosmetics, skincare, and "lifestyle" products which would be used in the salon and also sold at retail both in the salon and at selected retail outlets.

9. On or about February 24, 1999, with financial support from Mr Arnold Simon, I founded AAS (which later changed its name to ABH), with myself as President and Howard Barnaby of Robin, Blecker & Daley ("RB&D) as trademark counsel. We decided to adopt the distinctive phrase "ANASTASIA BEVERLY HILLS" as our house mark, and I retained Bird Designs to design a new logo.

10. By September 1999, we were actively working with various suppliers (including established makers of high-quality cosmetics and toiletries and associated packaging in New York, Italy, and Japan) to develop new skincare and cosmetics products for national distribution by Opposer ABH, to be labeled with the ANASTASIA BEVERLY HILLS name and logo.

11. At about that same time, I was engaged in planning for a remodel of our salon in which the signage of our salon was to be changed from simply "Anastasia" to "ANASTASIA Beverly Hills" (with the newly adopted logo), so that our existing clients and prospective customers would clearly identify a common source with a nationwide reputation for excellence for both our existing services and our future products.

Prosecution of Registration No. 2821892

12. On or about October 26, 1999, as President of AAS, I signed an intent-to-use trademark application bearing docket number B877-003 for the ANASTASIA BEVERLY HILLS word mark for goods in Classes 3, 4, 5, 8 and 21 (the "ABH Mark "). I understand that the application subsequently was filed in duplicate by RB&D on October 27, 1999 under serial number 75833289 (which I understand is now "DEAD"), and on October 28, 1999 under serial number 75833810 (the "ABH Application").

13. The ABH Application included a Declaration (the "1999 ABH Declaration") which stated that I believed AAS "to be entitled to use such mark in commerce" and that to the best of my knowledge and belief "no other firm, corporation or association has the right to use said mark in commerce, either in identical form or in such near resemblance thereto as to be likely, when used in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive."

14. The ABH Application listed a large number of "goods" and stated that "Applicant has a bona fide intention to use the mark in commerce in connection with the above-identified goods" and that the "mark will be used on labels and packaging for the goods."

15. The 1999 ABH Declaration did not itself make any explicit reference to any specific goods, and I did not conduct a careful review of the "goods" listed in the body of the application or have a clear understanding of what it means to "use the mark in commerce", other than to note that the listing of "goods" included all the product categories (including cosmetics and grooming tools, skin care products, and fragrance products) that I was planning to market under the brand name "Anastasia Beverly Hills."

16. On or about October 24, 2000 Debra L. Johnson ("DLJ"), whom I had previously retained as counsel for ABH, apparently requested an extension to respond to an April 24, 2000 office action. On February 5, 2001 a notice of abandonment of the ABH Application was apparently mailed to RB&D, based on failure to timely/completely respond to the April 24, 2000 office action.

17. Sometime subsequent to February 5, 2001, I retained Cislo and Thomas ("C&T") as our new trademark counsel. On or about March 29, 2001, C&T filed what I understood to be a complete response to the April 24, 2000 office action, as well as a Petition to Revive the ABH Application which was prepared by C&T and signed by myself on or about March 22, 2001. The Petition to Revive stated

that the failure to "timely/completely respond" by our prior counsel happened "apparently inadvertently," and that "Applicant" had only recently become aware of that abandonment.

18. On or about June 22, 2001, C&T filed an Amendment to Allege Use dated June 19, 2001 (the "2001 ABH Amendment"), and on or about September 9, 2002 a second Amendment to Allege Use dated September 4th, 2002 (the "2002 ABH Amendment"). The 2002 Amendment was subsequently "clarified" by a third Amendment to Allege Use filed on or about April 14, 2003 and dated April 10, 2003 (the "2003 ABH Clarification").

19. The 2001 ABH Amendment was prepared by C&T and I signed the Declaration, dated May 22, 2001 ("2001 ABH Declaration"), that appears on page 7 of the 2001 ABH Amendment. The 2001 ABH Declaration stated my belief that, among other things, ABH was the owner of the ANASTASIA BEVERLY HILLS word mark and that the mark "is now in use in commerce."

20. When signing the 2001 ABH Declaration, I did not realize that the 2001 ABH Amendment would be interpreted to mean that ABH was claiming that it was then using the mark in any particular way on any specific product other than would be apparent from the specific product specimens which I had provided to counsel: eyebrow highlighting pencils, eye liners, cosmetic wax, candles, cosmetics brushes, and tweezers (I now understand that the latter two specimens were not filed with the 2001 ABH Declaration, but were subsequently filed with the 2002 ABH Amendment).

21. It is my understanding that the ABH Application was published for Opposition on December 23, 2003, and issued on March 16, 2004 (the "ABH Registration"). Prior to the issuance of the ABH Registration, I mistakenly believed that any commercial use of the name "Anastasia Beverly Hills" constituted "use in commerce." In particular, I then believed that, as long as ABH sold or used the goods in the Anastasia Beverly Hills salon, which was clearly

identified with the ABH Mark, then ABH had used the ABH Mark “in commerce on or in connection with the goods.”

Prosecution of Registration No. 2798069

22. On or about October 26, 1999, as President of AAS, I signed an intent-to-use application bearing docket number B877-002 for the A ANASTASIA BEVERLY HILLS (stylized) and Design mark for goods in Classes 3, 4, 5, 8 and 21 (the "AABH Mark"), which I understand was subsequently filed in duplicate by RB&D on October 27, 1999 under serial number 78833290 (the "AABH Application"), and on October 28, 1999 under serial number 75833809 (which I understand is now "DEAD").

23. The AABH Application included a Declaration (the "1999 AABH Declaration") which stated that I believed AAS "to be entitled to use such mark in commerce" and that to the best of my knowledge and belief "no other firm, corporation or association has the right to use said mark in commerce, either in identical form or in such near resemblance thereto as to be likely, when used in connection with the goods of such other person, to cause confusion. or to cause mistake, or to deceive."

24. The AABH Application listed a large number of "goods" and stated that "Applicant has a bona fide intention to use the mark in commerce in connection with the above-identified goods" and that the "mark will be used on labels and packaging for the goods."

25. The 1999 AABH Declaration did not itself make any explicit reference to any specific goods, and I did not conduct a careful review of the "goods" listed in the body of the AABH Application or have a clear understanding of what it meant to "use the mark in commerce," other than to note that the listing of "goods" included all the product categories (including cosmetics and grooming tools, skin care products, and fragrance products) that I was planning to market under the brand name "Anastasia Beverly Hills" and our newly adopted logo.

26. On or about October 24, 2000, DLJ apparently requested an extension to respond to an outstanding office action dated April 24, 2000. On or about February 5, 2001, a notice of abandonment of the AABH Application was apparently mailed to RB&D, based on failure to timely/completely respond to the April 24, 2000 office action.

27. On May 20, 2002, C&T apparently filed in the AABH Application a Petition to Revive the AABH Application which I had previously signed on or about October 23, 2001, together with an Amendment dated May 15, 2002.

28. The AABH Application was Published on March 11, 2003 and a Notice of Allowance was issued on June 3, 2003.

29. On or about August 5, 2003, C&T filed a Statement of Use of the A ANASTASIA BEVERLY HILLS & Design mark, which included a undated Declaration signed by me (the "2003 AABH Declaration") which stated that, among other things, ABH was the owner of the A ANASTASIA BEVERLY HILLS & Design mark and that ABH "has used the mark in commerce on or in connection with the goods specified in the Notice of Allowance."

30. Prior to signing the 2003 AABH Declaration, I did not review the Notice of Allowance and I did not realize that the Notice of Allowance covered goods other than what would be apparent from the product specimens which we had previously provided counsel, namely eyebrow highlighting pencils, eye liners, cosmetic wax, candles, cosmetics brushes, tweezers, exfoliating shower cream, body milk, exfoliating face scrub, hand cream, loose powder, brow powder, eye shadow, body bar soap, and mascara. In particular, I did not realize that the Notice of Allowance specifically included nail polish, nail base coat, and nail top coat; facial toners, facial astringents, facial masques, body toners, body astringents; fragranced bar body toners, and astringents.

31. Furthermore, I did not know that the Statement of Use would be interpreted to mean that ABH was claiming that it was using the mark on each of

those goods in interstate commerce, nor did I understand the legal meaning of "interstate commerce."

32. The AABH Application was apparently published for opposition on March 11, 2003, and issued on December 23, 2003 as Registration No. 1798069 (the "AABH Registration").

Basis for Proposed Amendments

33. I now understand that in the context of trademark rights under US federal trademark law, "in commerce" refers to interstate commerce regulable by Congress, and that "use" means applying the mark to specific "goods" or "services" (or otherwise using the mark to identify the origin or sponsorship of those specific goods and services) in the normal course of trade in those goods or services.

34. In particular, I now understand that "use in commerce" encompasses goods bearing the ABH and AABH Marks that have been distributed by or for ABH to retail stores such as Nordstrom and Sephora which are located in more than one state, goods bearing those marks which are manufactured in one state and are then distributed by or for ABH into another state, goods bearing those marks which are shipped by or for ABH from a distribution center in one state to customers in another state or foreign country, and goods bearing those marks which are sold by or for ABH in one state to customers who transport those goods to other states or countries for use in those other states or countries.

35. It is also my present understanding that a registration based on use in the United States can cover only goods and services for which the mark was actually being used in commerce (as defined above) as of the date of registration.

36. Based on my present understanding of "use in commerce," I hereby confirm that, at least as early as August 5, 2003 (the filing date of the Statement of Use in the AABH Application), the ABH and AABH Marks were actually being

used in commerce, on the product specimens filed in the ABH Application and in the AABH Application. Specifically, at least as early as September 9, 2002 (the filing date of the 2002 ABH Amendment), the ABH and AABH marks were being used in commerce on eyebrow highlighting pencils, eye liners, depilatory wax, candles, cosmetics brushes, and tweezers (the specimens of use filed in the ABH Application) and at least as early as August 5, 2003 (the filing date of the Statement of Use in the AABH Application) on exfoliating shower cream, candles, body milk, exfoliating face scrub, hand cream, loose powder, brow powder, eye shadow, body bar soap, mascara, cosmetics brushes, and tweezers (the specimens of use filed in the AABH Application).

37. Based on my present understanding of "use in commerce" as set forth above, and based on my present understanding of the common trade usage of these terms in connection with cosmetics and skincare products and services, I hereby also confirm that, at least as early as August 5, 2003, the ABH and AABH marks were actually being used in commerce on the following generic goods listed in the ABH and AABH Registrations: foundation, concealer, pressed powder, loose powder, eye shadow base, blush, bronzing products/bronzing liquid, eye shadows, mascara, eyeliners, lip coverings, lipstick, lip gloss, lip liners, eyebrow color products/eyebrow color pencils, eyebrow pencils, eyebrow powder, eyebrow pomade, eyebrow gel; facial cleansers, facial cleansing bars, facial moisturizers, eye creams, eye gels, eye-area moisturizers, eye-area gels, eye area creams, facial serums, facial exfoliators, body cream, body lotion/body lotions, body powder, body moisturizers, and hand creams; body cleansing creams, and bar soaps; fragranced creams and lotions; candles; eyebrow tweezers and eyebrow grooming scissors; and cosmetic brushes.

38. I do not profess to be an expert on what constitutes normal trade usages and practices in the field of fragrances and perfumes; however, as of as August 5, 2003, I then believed in good faith and today still believe that the ABH and AABH marks were and are being used in commerce on the following generic

goods listed in the ABH and AABH Registrations: potpourri; perfume, eau de parfum, eau de toilette, eau de cologne; room fragrances.

39. Based upon my present understanding of "use in commerce," on the registration dates of the ABH and AABH marks, to the best of my knowledge and belief, the marks had not been used in commerce on the following generic goods listed in the registrations: nail polish, nail base coat, and nail top coat; facial toners, facial astringents, facial masques, body toners, body astringents; body cleansing gels; fragranced gels, bar body toners, and astringents.

40. Since it now appears that the ABH and AABH Registrations were improperly extended, without any deceptive intent, to cover certain goods on which the ABH and AABH marks had not actually been "used in commerce" as of the date of registration, I, as President of ABH, have instructed our current trademark counsel to seek to amend the registrations to delete such goods. Specifically, we wish to amend the registrations to delete the following goods: nail polish, nail base coat, and nail top coat; facial toners, facial astringents, facial masques, body toners, body astringents; body cleansing gels; fragranced gels, bar body toners, and astringents from the ABH and AABH Registrations.

41. We are not currently promoting for nationwide sale, and presently have no firm plans to do so in the future, the following generic categories of goods listed in the ABH and AABH Registrations: potpourri; facial cleansing bars, facial cleansers, facial exfoliators, body powder; body cleansing products, namely, creams, and bar soaps; perfume, eau de parfum, eau de toilette, eau de cologne; room fragrances; and candles. Although I do not have any reason to believe that these particular types of goods were not validly covered by the original ABH and AABH Registrations, I have instructed counsel to not include those particular goods in any extension or renewal of the ABH and AABH Registrations.

42. It has been recently brought to my attention that inconsistent and/or erroneous dates of first use were inadvertently made of record for the ABH and

AABH Registrations. Based on my present understanding of "use" and "use in commerce", I confirm that the ABH and AABH marks were first used in the Beverly Hills salon at least as early as March 2000 on at least some of the listed goods in classes 3, 8 and 21 (for example, on eyebrow pencils, tweezers and cosmetic brushes) and at least as early as December 2001 for class 4 (candles); we have documentary evidence that those marks were first used in commerce on at least some of the listed goods shipped in the normal course of trade to national accounts such as Nordstrom at least as early as August 2000 for classes 3 and 8 (for example, eyebrow pencils and tweezers), at least as early as October 2000 for class 21 (cosmetic brushes), and at least as early as August 2003 for class 4 (candles).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

This Declaration is being executed in Beverly Hills, California on January 14, 2010.

____/Anastasia Soare/____
Anastasia Soare

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ANASTASIA BEVERLY HILLS, INC.)	
ANASTASIA SOARE	)	Opposition No. 91,188,736
ANASTASIA SKIN CARE, INC.)	
)	
Opposers	)	OPPOSERS' MOTION TO
	)	DISMISS
v.	)	COUNTERCLAIMS
)	
ANASTASIA MARIE LABORATORIES, INC.)	
)	
Applicant)	
)	

EXHIBIT P1-A
(TM ID re "cosmetics")



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)
[Trademarks](#) > Trademark Acceptable Identification of Goods & Services

Trademark ID Manual


Refine Search: COSMETICS

Documents: 1 - 216 of 216

Hit No.	Class	Description	Status	Effective Date	Type	Note	Trilateral
1	001	Antioxidants and proteins used in the manufacture of cosmetics, beverages, food products and food supplements	A	09 Aug 07	G	N	
2	001	Aqueous aromatic additives for use in the manufacture of room fresheners and cosmetics	M	17 Sep 09	G	Y	
3	001	Botanical extracts for use in making cosmetics	A	01 Jun 01	G	N	
4	001	Chemical additives for use in the manufacture of {indicate general nature of items, e.g., food, pharmaceuticals, cosmetics or indicate for a wide variety of goods, if accurate}	M	01 Nov 01	G	N	
5	001	Collagen used as a raw ingredient in the manufacture of cosmetics	A	23 Apr 09	G	N	T
6	001	Emollient used as an ingredient in the manufacture of cosmetics, toiletries, and pharmaceuticals	A	20 Nov 08	G	N	
7	001	Fermented rice bran for use in the manufacture of cosmetics	A	01 Jul 04	G	N	
8	001	Functionalized silicones for use in the manufacture of personal care and cosmetic compositions	A	01 Dec 05	G	N	
9	001	Glutamic acid as raw materials for use in the manufacture of cosmetics	A	26 Mar 09	G	N	T
10	001	Glycerine for use in the manufacture of {indicate general nature of items, e.g., food, pharmaceuticals, cosmetics or indicate for a wide variety of goods, if accurate}	A	18 Sep 08	G	N	
11	001	Glycerol for use in the manufacture of {indicate general nature of items, e.g., food, pharmaceuticals, cosmetics or indicate for a wide variety of goods, if accurate}	A	18 Sep 08	G	N	
12	001	Lipids used in the manufacture of cosmetics, beverages, food products and food supplements	M	10 Dec 09	G	Y	

<http://tess2.uspto.gov/netacgi/nph-brs?sect2=THESOFF§3=PLUR...t4=HITOFF&op1=AND&d=TIDM&p=1&u=%2Fmetahtml%2Ftidm.html&r=0&f=S> Page 2 of 11

36	003	Chalk for cosmetic use	A	20 Jul 04	G	N	T
37	003	Cleaner for cosmetic brushes	A	01 Jun 01	G	N	
38	003	Cleansing creams [cosmetic]	A	20 Jul 04	G	N	T
39	003	Cocoa butter for cosmetic purposes	A	12 Apr 99	G	N	
40	003	Colognes, perfumes and cosmetics	A	08 Nov 07	G	N	T
41	003	Coloring preparations for cosmetic purposes	A	01 Feb 06	G	N	
42	003	Concealers [not acceptable alone, but acceptable in a cosmetics list]	A	01 Oct 94	G	N	
43	003	Cosmetic balls	A	01 Oct 94	G	N	
44	003	Cosmetic creams	A	20 Jul 04	G	N	T
45	003	Cosmetic creams for skin care	A	20 Jul 04	G	N	T
46	003	Cosmetic facial blotting papers	A	01 Aug 05	G	N	
47	003	Cosmetic hair dressing preparations	A	31 Jul 08	G	N	T
48	003	Cosmetic hair regrowth inhibiting preparations	A	07 Aug 08	G	N	T
49	003	Cosmetic masks	A	28 May 09	G	N	
50	003	Cosmetic milks	A	01 Jun 05	G	N	
51	003	Cosmetic oils	A	20 Jul 04	G	N	T
52	003	Cosmetic oils for the epidermis	A	20 Jul 04	G	N	T
53	003	Cosmetic olive oil for the face and body	A	15 Nov 07	G	N	
54	003	Cosmetic pads	A	01 Oct 94	G	N	
55	003	Cosmetic pencils	A	02 Apr 91	G	N	
56	003	Cosmetic preparations for skin renewal	A	04 Sep 01	G	N	
57	003	Cosmetic preparations against sunburn	A	20 Jul 04	G	N	T
58	003	Cosmetic preparations and products for dry skin during pregnancy	D	01 Sep 04	G	Y	T
59	003	Cosmetic preparations and products for enhancing the breasts	D	01 Sep 04	G	Y	T
60	003	Cosmetic preparations and products for skin care	D	01 Sep 04	G	Y	T
61	003	Cosmetic preparations for body care	A	20 Jul 04	G	N	T
62	003	Cosmetic preparations for eye lashes	A	20 Jul 04	G	N	T
63	003	Cosmetic preparations for the care of mouth and teeth	A	20 Jul 04	G	N	T

<http://tess2.uspto.gov/netacgi/nph-brs?sect2=THESOFF§3=PLUR...t4=HITOFF&op1=AND&d=TIDM&p=1&u=%2Fmetahtml%2Ftidm.html&r=0&f=S> Page 4 of 11

<http://tess2.uspto.gov/netacqi/nph-brs?sect2=THESOFF§3=PLUR...t4=HITOFF&op1=AND&d=TIDM&p=1&u=%2Fnetacqi%2Ftidm.html&r=0&f=S> Page 5 of 11

116	003	Non-medicated cosmetic skin care preparations consisting of organic coconut virgin oil and coconut virgin oil	A	27 Mar 08	G	N	
117	003	Non-medicated hair treatment preparations for cosmetic purposes	A	06 Nov 08	G	N	
118	003	Nutritional oils for cosmetic purposes	A	01 Oct 05	G	N	
119	003	Oils for cosmetic purposes	A	08 Nov 07	G	N	T
120	003	Paraffin wax for cosmetic purposes	A	01 Jul 06	G	N	
121	003	Pencils for cosmetic purposes	A	20 Jul 04	G	N	T
122	003	Perfume oils for the manufacture of cosmetic preparations	A	20 Jul 04	G	N	T
123	003	Petroleum jelly for cosmetic purposes	A	02 Apr 91	G	N	T
124	003	Plant and herb extracts sold as components of cosmetics	A	24 Sep 09	G	N	
125	003	Pre-moistened cosmetic tissues	A	02 Apr 91	G	N	
126	003	Pre-moistened cosmetic towelettes	A	02 Apr 91	G	N	
127	003	Pre-moistened cosmetic wipes	A	02 Apr 91	G	N	
128	003	Private label cosmetics	A	08 May 08	G	N	
129	003	Retinol cream for cosmetic purposes	A	22 Feb 07	G	N	T
130	003	Rose oil for cosmetic purposes	A	20 Jul 04	G	N	T
131	003	Self-tanning preparations [cosmetics]	A	01 Apr 05	G	N	T
132	003	Shampoos [not acceptable alone, but acceptable in a list of cosmetics or hair care products]	D	15 Feb 07	G	Y	
133	003	Shea butter for cosmetic purposes	A	13 Mar 08	G	N	
134	003	Skin and body topical lotions, creams and oils for cosmetic use	A	25 Jan 07	G	N	
135	003	Skin conditioning creams for cosmetic purposes	A	08 Jan 09	G	N	T
136	003	Skin fresheners [cosmetics]	A	21 Aug 08	G	N	T
137	003	Soaps [not acceptable alone, but acceptable in a list of cosmetics or a list of cleaning preparations]	A	01 Oct 94	G	N	
138	003	Solid powder for compacts [cosmetics]	A	21 Aug 08	G	N	T
139	003	Suntan oils for cosmetic purposes	A	21 Aug 08	G	N	T
140	003	Tanning and after-sun milks, gels and oils [cosmetics]	A	28 Jun 07	G	N	T
141	003	Tanning gels [cosmetics]	A	28 Jun	G	N	T

				07			
142	003	Tanning milks [cosmetics]	A	28 Jun 07	G	N	T
143	003	Tanning oils [cosmetics]	A	28 Jun 07	G	N	T
144	003	Teeth whitening strips impregnated with teeth whitening preparations [cosmetics]	A	23 Oct 08	G	N	T
145	003	Tissues impregnated with cosmetic lotions	A	01 Mar 07	G	N	T
146	003	Toners [not acceptable alone, but acceptable in a list of cosmetics]	A	01 Oct 94	G	N	
147	003	Tooth whiteners for cosmetic purposes comprised of neutral sodium fluoride sustained release gel	A	30 Apr 09	G	N	
148	003	Topical skin sprays for cosmetic purposes	A	01 Jun 01	G	N	
149	003	Wrinkle-minimizing cosmetic preparations for topical facial use	A	22 May 08	G	N	
150	004	Beeswax for use in the manufacture of cosmetics	A	02 Apr 91	G	N	
151	004	Gels comprised of plant-based oils and plant-based waxes for use in the manufacture of cosmetics and toiletries	A	23 Oct 08	G	N	T
152	004	Gels comprised of vegetable-based oils and vegetable-based waxes for use in the manufacture of cosmetics and toiletries	A	23 Oct 08	G	N	
153	004	Lanolin for use in the manufacture of cosmetics and ointments	A	02 Apr 91	G	N	
154	004	Mineral oil for use in the manufacture of cosmetics and skin care products	A	29 Jan 09	G	N	T
155	005	Antimicrobial preservatives for cosmetics and pharmaceuticals	A	22 Feb 07	G	N	
156	005	Medicated cosmetics	A	26 Mar 09	G	N	
157	005	Nutritional oils not for cosmetic purposes	D	06 Aug 09	G	Y	
158	005	Nutritional oils not for food or cosmetic purposes	A	01 Oct 05	G	N	
159	005	Plant and herb extracts sold as components of medicated cosmetics	A	24 Sep 09	G	N	
160	010	Beauty and cosmetic sterilizing pouches	A	01 Jun 01	G	N	
161	010	Cosmetic apparatus, namely, light based devices providing mainly pulsed light for performing non-ablative aesthetic skin treatment procedures	A	10 Sep 09	G	N	
162	010	Cosmetic apparatus, namely, soft plastic facial adhesive film for temporary wrinkle removal or reduction	A	17 Sep 09	G	N	
163	010	Facial toning machines for cosmetic use	A	01 Jun 01	G	N	
164	010	Lasers for the cosmetic treatment of the face and skin	A	01 Aug	G	N	

<http://tess2.uspto.gov/netacgi/nph-brs?sect2=THESOFF§3=PLUR...t4=HITOFF&op1=AND&d=TIDM&p=1&u=%2Fmetahtml%2Ftidm.html&r=0&f=S> Page 8 of 11

		e.g. clothing, shoes, cosmetics}		97			
187	039	Distribution services, namely, delivery of {indicate field or type of goods, e.g. clothing, automotive parts, cosmetics}	A	07 Sep 06	S	N	
188	042	Cosmetic research consultation	A	01 Aug 05	S	N	
189	042	Cosmetics (Door to door selling in the field of)	D	01 Oct 94	S	Y	
190	042	Cosmetics research	A	02 Apr 91	S	N	
191	042	Cosmetics research for others	A	02 Apr 91	S	N	
192	042	Door to door selling in the field of {indicate specific fields, e.g. cosmetics, brushes}	D	01 Oct 94	S	Y	
193	042	Home parties (Retail sale of {indicate specific goods, e.g. cosmetics, housewares, lingerie} by means of)	D	01 Oct 94	S	Y	
194	042	Laboratory research in the field of {indicate specific field, e.g. bacteriology, chemistry, cosmetics}	A	02 Apr 91	S	N	
195	042	Parties (Retail sale of {indicate specific goods, e.g. cosmetics, lingerie, housewares} by means of home)	D	01 Oct 94	S	Y	
196	042	Retail sale of {indicate specific goods, e.g. cosmetics, housewares, lingerie} by means of home parties	D	01 Oct 94	S	Y	
197	042	Testing, inspection or research of pharmaceuticals, cosmetics or foodstuff	A	20 Jul 04	S	N	T
198	044	Beauty spa services, namely, cosmetic body care	A	26 Jun 08	S	N	
199	044	Color analysis for cosmetic purposes	M	05 Apr 07	S	Y	
200	044	Cosmetic analysis	M	01 Jan 02	S	Y	
201	044	Cosmetic and plastic surgery	M	01 Jan 02	S	Y	
202	044	Cosmetic and plastic surgery, namely, a minimally invasive face/neck lift done under local anesthesia	A	25 Sep 08	S	N	
203	044	Cosmetic body care services in the nature of body wraps	A	19 Jun 08	S	N	
204	044	Cosmetic dentistry	M	01 Jan 02	S	Y	
205	044	Cosmetic electrolysis	M	01 Jan 02	S	Y	
206	044	Cosmetic services, namely, non-permanent hair removal	A	13 Nov 08	S	N	
207	044	Cosmetic skin care services	A	27 Aug 09	S	N	
208	044	Cosmetic tattooing services	A	16 Oct 08	S	N	
209	044	Facial treatment services, namely, cosmetic peels	A	01 Feb 07	S	N	

210	044	Health spa services for health and wellness of the body and spirit, namely, providing massage, facial and body treatment services, cosmetic body care services	A	19 Mar 09	S	N
211	044	Health spa services, namely, cosmetic body care services	M	01 Jan 02	S	Y
212	044	Medical spa services, namely, minimally and non-invasive cosmetic and body fitness therapies	A	05 Nov 09	S	N
213	044	Non-invasive cosmetic medical procedures	A	08 Mar 07	S	N
214	044	Performing cosmetic surgical procedures for vaginal rejuvenation	A	16 Jul 09	S	N
215	044	Provide a website featuring information about holistic cosmetic and plastic surgery practice	A	07 May 09	S	N
216	044	Skin tanning service for humans for cosmetic purposes	A	19 Apr 07	S	N

Submit

[Return to Search](#)

[HOME](#) [SITE INDEX](#) [SEARCH](#) [eBUSINESS](#) [HELP](#) [PRIVACY](#) [POLICY](#)



**IN THE UNITED STATES PATENT AND TRADEMARK
OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL
BOARD**

ANASTASIA BEVERLY HILLS, INC.)	
ANASTASIA SOARE	)	Opposition No. 91,188,736
ANASTASIA SKIN CARE, INC.)	
)	
Opposers	)	OPPOSERS' MOTION TO
	)	DISMISS
v.	)	COUNTERCLAIMS
)	
ANASTASIA MARIE LABORATORIES, INC.)	
)	
Applicant)	

EXHIBIT P1-B

(TM ID re "skin care")



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)
[Trademarks](#) > Trademark Acceptable Identification of Goods & Services

Trademark ID Manual


Refine Search: SKIN AND CARE

Documents: 1 - 28 of 28

<i>Hit No.</i>	<i>Class</i>	<i>Description</i>	<i>Status</i>	<i>Effective Date</i>	<i>Type</i>	<i>Note</i>	<i>Trilateral</i>
1	003	Cosmetic creams for skin care	A	20 Jul 04	G	N	T
2	003	Cosmetic preparations and products for skin care	D	01 Sep 04	G	Y	T
3	003	Cosmetic products in the form of aerosols for skin care	A	20 Jul 04	G	N	T
4	003	Natural cocoa butter based personal care products, namely, body lotion, shower gel, soap, body polish, body and foot scrub and non-medicated skin creams	A	04 Jun 09	G	N	T
5	003	Non-medicated cosmetic skin care preparations consisting of organic coconut virgin oil and coconut virgin oil	A	27 Mar 08	G	N	
6	003	Non-medicated preparations all for the care of skin, hair and scalp	A	08 Nov 07	G	N	
7	003	Non-medicated skin care preparations	A	01 Jul 01	G	N	
8	003	Non-medicated skin care preparations, namely, creams, lotions, gels, toners, cleaners and peels	A	19 Jul 07	G	N	
9	003	Non-medicated skin care preparation, namely, body mist	A	08 May 08	G	N	
10	003	Skin care preparations, namely, chemical peels for skin	A	28 Sep 06	G	Y	
11	003	Skin care preparations, namely, fruit acid peels for skin	A	28 Sep 06	G	Y	
12	003	Skin care preparation, namely, body polish	A	05 Jul 07	G	Y	
13	003	Skin care preparations, namely, body balm	A	01 Nov 07	G	Y	
14	003	Skin care preparations, namely, skin peels	A	23 Apr 09	G	N	

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ANASTASIA BEVERLY HILLS, INC.)	
ANASTASIA SOARE	)	Opposition No. 91,188,736
ANASTASIA SKIN CARE, INC.)	
)	
Opposers	)	OPPOSERS' MOTION TO
	)	DISMISS
v.	)	COUNTERCLAIMS
)	
ANASTASIA MARIE LABORATORIES, INC.)	
)	
Applicant)	
)	

EXHIBIT P1-C
(TM ID re "soaps")



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)
[Trademarks](#) > Trademark Acceptable Identification of Goods & Services

Trademark ID Manual


Refine Search:

Documents: 1 - 65 of 65

<i>Hit No.</i>	<i>Class</i>	<i>Description</i>	<i>Status</i>	<i>Effective Date</i>	<i>Type</i>	<i>Note</i>	<i>Trilateral</i>
1	001	Chemical preservatives for use in manufacture of soap and vegetable oils	A	01 Jun 01	G	N	
2	002	Colorants for use in the manufacture of soap	A	02 Apr 91	G	N	
3	002	Dyes for making soap	A	01 Jun 01	G	N	
4	003	Almond soaps	A	20 Jul 04	G	N	T
5	003	Antibacterial skin soaps	A	01 Jun 01	G	N	
6	003	Antibacterial soap	A	12 Apr 99	G	N	
7	003	Aromatherapy body care products, namely, body lotion, shower gel, cuticle cream, shampoo, conditioner, non-medicated lip balm, soap, body polish, body and foot scrub and non-medicated foot cream	A	25 Oct 07	G	N	
8	003	Bar soap	A	01 Feb 01	G	N	
9	003	Bath soaps	A	29 Mar 07	G	N	T
10	003	Bath soaps in liquid, solid or gel form	A	20 Jul 04	G	N	T
11	003	Body cream soap	A	20 Jul 04	G	N	T
12	003	Cakes of toilet soap	A	08 Nov 07	G	N	T
13	003	Cosmetic soaps	A	20 Jul 04	G	N	T
14	003	Cream soaps	A	20 Jul 04	G	N	T
15	003	Deodorant soap	A	02 Apr	G	N	T

				91			
16	003	Detergent soap	A	01 Oct 94	G	N	
17	003	Disinfectant soaps	A	01 Jan 95	G	N	
18	003	Disinfecting perfumed soaps	A	20 Jul 04	G	N	T
19	003	Granulated soaps	A	20 Jul 04	G	N	T
20	003	Hand soaps	A	01 Jun 01	G	N	
21	003	Industrial soap	A	20 Jul 04	G	N	T
22	003	Laundry soap	A	20 Jul 04	G	N	T
23	003	Liquid bath soaps	A	20 Jul 04	G	N	T
24	003	Liquid soap	A	20 Jul 04	G	N	T
25	003	Liquid soap used in foot bath	A	20 Jul 04	G	N	T
26	003	Liquid soaps	A	20 Jul 04	G	N	T
27	003	Liquid soaps for hands, face and body	A	02 Apr 91	G	N	
28	003	Liquid soaps for hands and face	A	20 Jul 04	G	N	T
29	003	Loofah soaps	A	23 Apr 09	G	N	
30	003	Medicated soap	A	20 Feb 96	G	Y	T
31	003	Medicated soaps	A	02 Jan 97	G	Y	T
32	003	Natural cocoa butter based personal care products, namely, body lotion, shower gel, soap, body polish, body and foot scrub and non-medicated skin creams	A	04 Jun 09	G	N	
33	003	Perfumed soap	A	20 Jul 04	G	N	T
34	003	Perfumed soaps	A	20 Jul 04	G	N	T
35	003	Saddle soap	A	02 Apr 91	G	N	
36	003	Scent eliminating shampoo and soap for use associated with hunting and outdoor recreation	A	31 Dec 09	G	N	
37	003	Shaving soap	A	01 Oct 94	G	N	T
38	003	Shaving soaps	A	08 Nov 07	G	N	T
39	003	Skin soap	A	02 Apr 91	G	N	
40	003	Soap in the form of bath toys	A	15 Oct 09	G	N	
41	003	Soap powder	A	20 Jul 04	G	N	T
42	003	Soaps [not acceptable alone, but acceptable in a list of cosmetics or a list of cleaning preparations]	A	01 Oct 94	G	N	
43	003	Soaps and detergents	A	20 Jul 04	G	N	T

44	003	Soaps for body care	A	20 Jul 04	G	N	T
45	003	Soaps for household use	A	20 Jul 04	G	N	T
46	003	Soaps for personal use	A	20 Jul 04	G	N	T
47	003	Soaps for toilet purposes	A	20 Jul 04	G	N	T
48	003	Toilet soap	A	02 Apr 91	G	N	T
49	003	Toilet soaps	A	20 Jul 04	G	N	T
50	003	Waterless soap	A	01 Jun 01	G	N	
51	004	Vegetable oil for use in the manufacture of paints and/or soaps	A	02 Apr 91	G	N	
52	005	Medicated soaps of Japanese pharmacopoeia	D	01 Mar 05	G	N	T
53	020	Plastic molds for making soap	A	01 Jun 01	G	N	
54	020	Plastic molds for making soap for commercial production purposes	A	01 Jul 01	G	N	
55	021	Dispensers for liquid soap [or similar household or commercial products]	A	02 Apr 91	G	N	
56	021	Plastic molds for household use in making soap	A	01 Jul 01	G	N	
57	021	Soap boxes	A	02 Apr 91	G	N	
58	021	Soap brackets	A	02 Apr 91	G	N	
59	021	Soap containers	A	02 Apr 91	G	N	
60	021	Soap dishes	A	02 Apr 91	G	N	
61	021	Soap dispensers	A	02 Apr 91	G	N	T
62	021	Soap holders	A	02 Apr 91	G	N	
63	021	Soap holders and boxes	A	20 Jul 04	G	N	T
64	021	Wall soap dishes	A	20 Jul 04	G	N	T
65	024	Lightweight cotton cloth in the nature of a wash cloth designed to clean the external ear and the visible ear canal by removing crusted ear wax, dirt, dried skin, and soap residue	A	29 May 08	G	N	

Refined Search:

[Return to Search](#)

[HOME](#) [SITE INDEX](#) [SEARCH](#) [eBUSINESS HELP](#) [PRIVACY POLICY](#)

